1952.

File No. B. Lotteries
Legal Department

B **BRANCH**

Subject:—

L. A. Bill No. XXXII of 1952

The Bombay Lotteries and control Prize Competitions and Tax (Amendment) Bill, 1952.

Bom. Act no. XXX of 1952

Q.31/E

File No. B. Lotteries/52

Gen. 194 e.

913 B

K

Office of the A.I.G..

The I.G.P. is of opinion that, in the absence of any marks of identification, it would not be possible to prove that money whether in coin or currency notes brought by any person into the State of Bombay was the very money won by him on a lottery promoted outside. He, however, suggests that a provision for forfeiture to Government of an amount equal to that of the prize or the value thereof should be made. The question raised by H.D. is whether such a provision is feasible. Under section 53 of the Indian Penal Code forfeiture of property is no doubt a punishment recognised by law. But forfeiture known to jurisprudence is of two kinds:- (1) absolute forfeiture and (2) forfeiture of specific property in respect of which an offence has been committed. The proposal of the I.G.P. is to provide for absolute forfeiture. It is suggested that an amount equal to the prize or the value thereof should be forfeited to Government, irrespective of the fact whether the prize or the money won in a lottery is actually traded in the State of Bombay. The punishment of absolute forfeiture was originally provided in the Indian Penal Code for high political offences and it could also be imposed in the case of offences punishable with death. But it has been abolished by Act XVI of 1921. Both in England as well as in America it has been done away with. To accept the suggestion of the I.G.P. would be tantamount to go back to the old provision and to impose that punishment for an offence of much less heinous character. It is likely that in view of the history of the legislation a court would be inclined to hold that a provision of that nature would be in contravention of article 19(1)(f) of the Constitution.

If, however, it can be proved that the prize money of a foreign lottery has been brought into the Bombay State, as stated in H.L.A's opinion No.7635 dated 6th July 1950, it would be possible to provide that a court before which a person is proved to have committed an offence of possessing or purchasing a foreign lottery ticket is liable to forfeit any money or valuable thing won as a prize by such person on such a ticket and brought into the State, or in the alternative to a fine which may be equal to or may not be less than the value of such prize. The latter woul be a provision ofthe type of minimum sentence embodies in various enactments. But even in those cases discretion rests with a court to award punishment less than the minimum for sufficient reasons to be recorded in writing.

Id/- J.R.D. 22/12

Remembrancer of Legal Affairs.

U.R. to H.D. No.20194 dated the 24th December 1951.

KAH/27-6.
4 c.

Legal Department.

A tentative draft Bill in respect of prize competitions is sent herewith.

2. It appears that a notification has been issued under clause (b) of sub-section (1) of section 12 of the Bombay Lotteries and Prize Competitions Control and Tax Act, 1948, levying in respect of prize competitions a tax at the uniform rate of 25% of the total sum received. It is presumed that the intention is not to affect this uniform rate of 25%. This is supported by the question that has arisen from the protest of the Times of India against the tax levied at a rate higher than 25 per cent by a notification issued under sub-section (2) of section 12 of the Act. The Home Department note at page 5 ante also refers to the prescription of a higher rate of tax for those competitions which were found to make higher profits. If this presumption is correct, to remove clause (b) of sub-section (1) of section 12 and sub-section (2) of section 12 from the constitutional infirmity from which they suffer it would be necessary to amend clause (b) of sub-section (1) of section 12 so as to prescribe a tax at the uniform rate of 25%. It will also be necessary to amend sub-section (2) of section 12 so as to indicate the circumstances in which a rate higher than 25% shall be charged in respect of the prize competitions.

3. To put sub-section (2) of section 12 on a constitutional basis similar amendment will have to be made in respect of lotteries. The Home Department should indicate the factors which Government should take into consideration for levying different rates in respect of different lotteries.

Id/- J.R.D. 8/2

Additional Secretary to Government.

KAN/27-6.

U.D. to H.D., No.2065, dated the 9th February 1952.

Legal Department.

The draft Bill giving effect to the proposals contained in the following H.D. files is sent herewith.

(1) H.D. File No. 7049/5/69092,
(2) —do— No. 7049/5/11438,
(3) —do— No. 7049/5/15089 and
(4) —do— No. 7049/5/75956.

In H.D. File No.7049/5/11438, the questions raised were -

(1) whether in section 2(d)(i) the words "for which the prepared beforehand by the promoters of the competition or for which the solution is delivered by lot" govern the preceding words "any other competition" only or all the preceding words "cross-word competition etc."

(2) whether in all prize competitions falling within the purview of the Act, it is necessary that solution should be prepared beforehand.

2. As regards the first point, in R.L.A.'s opinion No.9158, dated the 11th June 1951, it was pointed out that having regard to the history of the legislation, the words governed the whole clause. This would be so, as any competition in which lot or chance does not play part, that is any competition which is entirely dependent on skill, would not be a prize competition in the nature of lottery and would not be governed by the provisions of the Act. (See R.L.A.'s opinion No.11001 dated the 12th July 1951). This point is made clear by the insertion of a comma after the words & "other competition."

3. As regards the second point, it is now made clear that the solution need not be made beforehand.

The decision in Barclay v. Pearson (1893) 2 Ch. 154 supports this view. Clause 4 of the draft Bill purports to amend section 4 of the Bombay Lotteries and Prize Competitions Control and Tax Act, 1948, and provides that the provisions of the said section will apply to prize competitions which are unlawful. Under the amended section sufficient provisions exist in the Act for the control of outside prize competitions.

4. In L.D. File No.7049/5/15209, in connection with the proposal to provide for prohibiting and bringing into the State of Bombay a prize won in a lottery promoted outside the State, the Secretary, H.D., in his note dated 10th January 1952 has observed that "it may be possible to prevent outside prize competitions being advertised in this State. It may not be necessary to go beyond this." Section 4(1) (d) of the Act has been amended so as to prohibit the advertising in this State of a prize competition conducted outside the State. In view of this provision, it does not seem now necessary to specifically provide that any money or valuable thing won as a prize in any lottery promoted elsewhere than in the State shall be liable to be forfeited to the State Government if the prize is brought into this State, especially for the reasons pointed out in the A.L.A.'s opinion No.7635 dated 6th June 1950 and No.20491, dated 24th December 1951. In England the law regarding foreign lotteries is expressed in the following words at page 178 of the Law of Gaming and Betting by Shoolbred:

"The Legislature of this Country, cannot, of

courses, prevent the setting of lottery in foreign country, it can, however, prevent the entry into this country of postal matter relating to the advertising or furtherance of such a lottery."

5. In H.D. File No.7049/5/4495, the Secretary, H.D., observes as follows:-

"We may await R.L.A.'s opinion about the amendment of the Act. In the meantime can we frame rules regulating the tax? The amendment of the Act may take sometime. Rules can perhaps be framed under section 31(1) laying down the considerations for regulating the tax."

As pointed out in this Department opinion No. 20178 dated 18-12-51, the validity of section 12 of the Bombay Lotteries and Prize Competitions Control and Tax Act, 1948, in so far as it does not give any indications for levying the tax at higher rate in some cases, is doubtful and is likely to be challenged on the ground that the said provisions offend against the guarantee of equality under article 14 of the Constitution. The said section gives power to Government to fix different rates for different competitions by means of a notification in the Official Gazette. Rules may be made as proposed under section 31, but section 12 should be amended as early as possible.

6. The subject matter of the Bill falls under entries 34, 62 and 64 in List II and entry 39 in List III in the Seventh Schedule to the Constitution. The Bill does not require any sanction but requires the Governor's recommendation under article 207(1). After the Bill is passed, it will have to be reserved for the consideration of the President with reference to article 254(2). If the bill is to be introduced and passed in the June Session of the Legislature, Early steps will have to be taken for its publication.

Id/- J.R.D. 3/5
Additional Secretary to Government.

KAN/27-6.
4 c.

U.R. to H.D., No. 7095, dated the 6th May 1952.

Legal Department.

The first suggestion made by Shri Jain is that advertisements and comments in newspapers and magazines published in the Bombay State should be stopped in respect of Crosswords not licensed by the Bombay State. Under section 7 of the Bombay Lotteries ~~States~~ and Prize Competitions Control and Tax Act, 1948, a prize competition is unlawful, if it is not licensed. Section 4(1)(d)(i) of the Act is being amended by clause 4(1)(e) of the Bill to include prize competitions. Clause 2 of the Bill deletes the exclusion of outside prize competition. Such competitions were excluded from the present Act. But the above amendment takes away that exemption. The result is that if an advertisement relating to an unlicensed outside prize competitions is printed or published in the Bombay State, the person will be held to have committed an offence under the Act.

2. The second point suggested in Shri Jain's letter is that the promoters of outside prize competitions should be prevented from opening offices or agencies in the State and circulating their magazines. To meet this difficulty, the definition of 'promoter' and the proviso thereto is being inserted by the Bill. The proviso to the definition provides that the manager or agent of the promoter is to

be deemed to be a promoter. Clause 4 of the Bill which amends Sec. 4 of the Act makes it unlawful for any person to publish any proposal to pay any sum, to print any tickets to sell or distribute or to advertise for sale or distribution, any coupons of an unlicensed prize competition whether promoter in or outside the State. These amendments carry out the purpose which Shri Jain has in view.

No further amendment is necessary to the Bill.

Id/- J.R.D. 28/7

Addl. Secy.

Secy. H.D.

KAH/27-6.
4 c.

Legal Department.

The following notes on clauses explain in detail the objects of the various clauses of L.A.Bill No.XXXII of 1952 (A Bill to amend the Bombay Lotteries and Prizze Competitions Control and Tax Act, 1918):-

Clause 2. Sub-clause (1)(i)(a)(i)(5) is intended to make clear that the definition of prize competition in the Act includes such competitions for which the solution is not prepared before-hand. In the case of some competitions, the solution is not prepared beforehand. It is settled after all the entries are closed. The promoters of such competitions did not come within the purview of the Act. But all the same such competitions did not cease to be prize competitions and their solutions did not entirely depend upon skill. Chance plays a part in their solution and there is no reason why they should be excluded from the scope of the Act.

Sub-clause (1)(i)(b) is to be read with clauses 5 and 8. The present definition of "prize competition" does not include prize competitions contained in newspapers printed and published outside the State. By amending the definition it is proposed to bring such competitions within the purview of the Act. For further details please see notes on clauses 5 and 8. It was found that attempts were made to evade the provisions of the Act by the mere publication of the newspaper containing the competitions outside the State.

Sub-clause (1)(ii) inserts a new definition of "promoter". The proviso to the definition makes it clear who shall be deemed to be a promoter in the case of prize competitions contained in newspapers or publications printed and published outside the State.

Sub-clause (2)(iii) brings the existing provisions of section 12(3) in section 2 which gives the definitions, as the proper place for such provision is in the definition clause.

Clause 3:- Existing section 3 provides that subject to the provisions of the Act, all lotteries are unlawful. The amendment makes it clear that all prize competitions also whether they amount to lotteries or not, are unlawful, unless they are licensed under the Act.

Clause 4.- Section 4 provides for offences in connection with lotteries. By the amendments it is made clear that the provisions of the section are also applicable to prize competitions, which are not authorised under the Act.

Clause 5.- It has been noticed that many newspapers and publications, whose main business is to promote prize competitions, in order to avoid taxation and control under the Act publish the newspapers or publications outside the State. They have wide circulation in the State and have unfair competition with the newspapers and publications published in the State, as they have not to pay the tax and are not subject to the various restrictions of the Act e.g. the maximum amount of the prizes to be given or the number of competitions which can be held during a certain period. As stated in the Statement of Objects and Reasons, one of the main objects of the Bill is to deal effectively with such prize competitions contained in newspapers or publications published outside the State. At the same time, it is considered necessary that Government should have power to exempt from the

provisions of the Act those newspapers and publications published outside the State which contain prize competitions, but which are not really intended for promoting such competitions in this State. The clause is, therefore, intended to give the necessary powers of exemption to Government.

Clause 6.- This clause contains a consequential amendment required in section 8, as a result of the amendments to section 4 proposed by clause 4.

Clause 7.- As pointed out in the Statement of Objects and Reasons, the clause is intended to revise section 12 so as to enable Government to levy different rates of tax on different prize competitions, having regard to the total sums received by the promoters of various prize competitions. At present the rate of tax on lotteries is 12½ per cent of the total sum received or due in respect of the lotteries. The clause is also intended to raise the rate of tax on lotteries to 25 per cent so as to bring it in line with the rate of tax ordinarily payable on prize competitions.

Clause 8.- The clause is intended to make a specific provision in the Act for levy of tax on lotteries and prize competitions in newspapers and publications published outside the State on the promoters who are in charge of their circulation in this State. The tax is to be on the sum as declared to have been received by such promoter from the people in this State.

Clause 9.- This clause contains amendments consequential to clause 8.

Clause 10.- Same remarks as on clause 9.

Clause 11.- Same remarks as on clause 9.

Clause 12.- For the proper enforcement of the Act, it is necessary to have powers to forfeit copies of newspapers or publications which contain lotteries or prize competitions which are not authorised under the Act. The clause is intended to confer the necessary powers on the Collector.

Clause 13.- This clause also contains amendment consequential to clause 8.

Id/- J.R.D. 8/8
Additional Secretary to Government.

K.N/27-6.
4 c.

Chief Minister.

No.15071/B
Legal Department,
Bombay Castle (Bombay No.1) 15th September 1952.

From:

Shri J.R. Khurandhar,
Additional Secretary to the Government of Bombay
Legal Department.

To

The Secretary to the Governor of Bombay.

Subject: Bombay Lotteries and Prize Competitions Control and Tax (Amendment) Bill, 1952.

Sir,

With reference to article 200 of the Constitution of India, I am directed to forward herewith for being presented to the Governor the authentic copy of the Bombay Lotteries and Prize Competitions Control and Tax(Amendment) Bill, 1952, which was read for the third time and passed at the meetings of the Bombay Legislative Assembly and the Bombay Legislative Council held on the 12th and the 20th August 1952, respectively.

2. The subject matter of the Bill falls under entries 34, 62 and 64 in List II and entries 1 and 39 in List III in the Seventh Schedule to the Constitution of India. As the provisions of the Bill are repugnant to the provisions of the Indian Penal Code, 1860, which is an existing law relating to entry 1 in the Concurrent Legislative List, and also, incidently, to the provisions of the Bombay Lotteries and Prize Competitions Control and Tax Act, 1948, in so far as it relates to a matter enumerated in entry 39 in the Concurrent Legislative List, it is necessary to reserve the Bill for the consideration of the President with reference to article 254(2) of the Constitution.

3. I also forward herewith six copies of each

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1. Bill as it introduced in the Bombay Legislative Assembly with the Statement of Objects and Reasons. : of the items

P.T.O.

2.	Bill as read for the third time and passed by the Bombay Legislative Council.	Nos. 1 and 2 and two
3.	Extracts from the proceedings of the Bombay Legislative Assembly dated the 11th and 12th August 1952 and of the Bombay Legislative Council, dated the 20th August 1952.	

copies of item No.3 of the papers noted in the margin. The Bill was not referred to a Select Committee.

Yours faithfully,

Id/-J.R.D. 13/9

Additional Secretary to Government.

Copy forwarded with compliments to the Secretary to the Government of Bombay, Home Department.

KAN/27-6.
4 c.

No. G.S.3008

From

Shri S.B.Kulkarni, I.A.S.,
THE SECRETARY TO THE GOVERNOR OF BOMBAY

To

The Secretary to the Bombay Legislature Department,
Council Hall, Bombay 1.

Subject:- Bombay Lotteries and Prize Competitions Control and Tax (Amendment) Bill, 1952.

RAJ BHAVAN,

Ganeshkhind, Poona, 7

September 27, 1952.

Sir,

Referring to the Bombay Lotteries and Prize Competitions Control and Tax (Amendment) Bill, 1952, which was passed by the Bombay Legislative Assembly and the Bombay Legislative Council on August 12 and 20, 1952, respectively, I am directed to state, for the information of the Speaker and the Chairman that as the provisions of the Bill are repugnant to the provisions of the Indian Penal Code, 1860, which is an existing law relating to entry 1 in the Concurrent Legislative List, and also, incidentally, to the provisions of the Bombay Lotteries and Prize Competitions Control and Tax Act, 1948, in so far as it relates to a matter enumerated in entry 39 in the Concurrent Legislative List, it is necessary to reserve the Bill for the consideration of the President - vide article 254(2) of the Constitution. The Governor has accordingly been pleased under article 200 of the Constitution, to declare that he reserves the Bill for the consideration of the President.

Yours faithfully,

Sd. S.B.Kulkarni,
Secretary to the Governor.

Governor's Secretary's Office,
Raj Bhavan, Ganeshkhind, Poona 7,
September 27, 1952.

Copy forwarded with compliments to the Additional Secretary to Government, Legal Department, with reference to his letter No.15071/B dated September 15, 1952.

Sd/- S.B.Kulkarni
Secretary to the Governor.

KAK/27-6./4 c.

No. GS-3592

From

THE SECRETARY TO THE GOVERNOR OF BOMBAY

To

The Additional Secretary to Government,
Legal Department, Secretariat, Bombay 1.

Subject:- The Bombay Lotteries & Prize Competitions Control and Tax(Amendment) Bill, 1952.

RAJB BHAVAN,
BOMBAY.
November 18, 1952.

Sir,

With reference to your letter No.17496/B dated October 22, 1952, on the above-mentioned subject, I am directed to forward herewith the authentic copy of the Bombay Lotteries and Prize Competitions Control and Tax (Amendment) Bill, 1952, with the President's assent signified thereon.

Yours faithfully,

Sd/-

for Secretary to the Governor.

KAM/27-6.
4 c.

Acts.

Publication of the Bombay Lotteries and Prize Competitions Control and Tax (Amendment) Act, 1952.

GOVERNMENT OF BOMBAY,
Legal Department,
Resolution No. 19359/B,
Bombay Castle, 20th November 1952.

Letter to the Secretary to the Governor, No. 15071/B, dated the 15th September 1952.

Letter from the Secretary to the Governor, No.G.S.3502, dated the 18th November 1952.

"With reference to your letter No. 17496/B, dated October 22, 1952, on the above-mentioned subject, I am directed to forward herewith the authentic copy of the Bombay Lotteries and Prize Competitions Control and Tax (Amendment) Bill, 1952, with the President's assent signified thereon."

RESOLUTION: The law should be published as Bombay Act No. XXX of 1952 in the Bombay Government Gazette dated the 20th November 1952.

2. The Act should be translated into Marathi, Gujarati, Kannada and Hindi (in Devnagari script) and the translations should be published in the Bombay Government Gazette.

3. A copy of the Act should be forwarded to the Home Department.

By order of the Governor of Bombay,

Sd/- S.W. DHEKANDHAR
Assitant Secretaryto Government.

To

The Manager, Government Central Press, Bombay (with a copy of the Act and with a request that 30 Gazette copies of the Act may be forwarded to the Legal Department),
The Home Department,) with a copy
* The Examiner of Books and Publications,) of the Act.
The Bombay Legislature Department,)
The Director of Publicity, Bombay)
The Liaison Officer for the Secretariat,)
Bombay.)

KAN/27-6.
4 c.

* With four extra copies of the Act.

REGISTERED No. B-1

The Bombay Government Gazette

PUBLISHED BY AUTHORITY

WEDNESDAY, 23RD JULY 1952.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V

[To be translated into Marathi, Gujarati, Kannada and Hindi (in Devnagari script) and the translations to be published in the "Bombay Government Gazette". The dates of publication to be reported.]

The following Bill is published under the proviso to rule 80 of the Bombay Legislative Assembly Rules :—

L. A. BILL No. XXXII OF 1952.

A Bill to amend the Bombay Lotteries and Prize Competitions Control and Tax Act, 1948.

WHEREAS it is expedient to amend the Bombay Lotteries and Prize Competitions Control and Tax Act, 1948, for the purposes hereinafter appearing ; It is hereby enacted as follows :—

1. This Act may be called the Bombay Lotteries and Prize Competitions Control and Tax (Amendment) Act, 1952. Short title.

Amendment of section 2 of Bom. LIV of 1948.

2. In section 2 of the Bombay Lotteries and Prize Competitions Control and Tax Act, 1948 (hereinafter referred to as "the said Act"), — Bom. LIV of 1948.

(*1*) in sub-section (*1*),—

(*i*) in clause (*d*),—

(*a*) for sub-clause (*i*) the following shall be substituted, namely :—

"(*i*) (1) cross-word prize competition,

(2) missing word prize competition,

(3) picture prize competition,

(4) number prize competition, or

(5) any other prize competition, for which the solution is or is not prepared before hand by the promoters or for which the solution is determined by lot or chance ; " ;

(*b*) the words "but does not include a prize competition contained in a newspaper printed and published outside the State of Bombay" shall be deleted ;

(*ii*) after clause (*d*), the following shall be inserted, namely :—

"(*dd*) 'promoter' includes a proprietor, manager, organizer or any person having the control or directing the conduct of a lottery or prize competition and in the case of a lottery or a prize competition conducted through a newspaper, includes the publisher of such newspaper :

Provided that in the case of a lottery or prize competition contained in a newspaper or publication printed and published outside the State, the manager or agent of the publisher of such newspaper or publication in charge of its circulation or distribution shall be deemed to be a promoter of the lottery or prize competition for the purposes of this Act ; and the words "promote' and 'promoting' shall be construed accordingly ;"

(*2*) in sub-section (*2*),—

(*i*) in clause (*a*), the word "and" occurring at the end shall be deleted

(*ii*) in clause (*b*), for the words "construed accordingly", the words "construed accordingly ; and" shall be substituted ; and

(*iii*) after clause (*b*), the following clause shall be added, namely :—

"(*c*) the Collector may, after making such inquiry as he deems fit, determine the person who is or is to be deemed to be a promoter in relation to a lottery or a prize competition, and his decision shall be final."

Amendment of section 3 of Bom. LIV of 1948.

3. In section 3 of the said Act and in the marginal note to the said section, after the word "lotteries" the words "and all prize competitions" shall be inserted.

Amendment of section 4 of Bom. LIV of 1948.

4. In section 4 of the said Act,—

(*1*) in sub-section (*1*),—

(*a*) after the words "in connection with any lottery", the words "or prize competition which is unlawful under the provisions of this Act, but which is" shall be inserted ;

(*b*) in clause (*a*), after the words "figure in the lottery" the words "or to the holding or production of any coupon" shall be inserted ;

(*c*) in clause (*b*), for the words "any tickets for use in the lottery" the words "any tickets or coupons for use in the lottery or prize competition" shall be substituted;

(*d*) in clause (*c*), for the words "any tickets or chances in the lottery" the words "any tickets, coupons or chances in the lottery or prize competition" shall be substituted;

(*e*) in clause (*d*),—

(*i*) in sub-clause (*i*), for the words "of the lottery" the words "of the lottery or prize competition" shall be substituted;

(*ii*) in sub-clause (*ii*), for the words "winning tickets in the lottery" the words "winning tickets or coupons in the lottery or prize competition" shall be substituted;

(*iii*) in sub-clause (*iii*),—

(*a*) for the word "lottery", where it occurs for the second time, the words "lottery or prize competition" shall be substituted; and

(*b*) for the words "in that lottery or in other lotteries" the words "in that lottery or prize competition or in other lotteries or prize competitions" shall be substituted;

(*f*) in clause (*e*),—

(*i*) after the word "ticket" the words "or coupon" shall be inserted; and

(*ii*) after the words "of the lottery" the words "or prize competition" shall be inserted;

(*g*) in clause (*f*), for the words "of any ticket or chance in the lottery" the words "any ticket, coupon or chance in the lottery or prize competition" shall be substituted;

(*h*) in clause (*g*), after the words "of the lottery" the words "or prize competition" shall be inserted;

(*2*) in sub-section (*2*), for the words beginning with the words "the lottery to" and ending with the words "or prize competition" the words "the lottery or prize competition to which the proceedings relate was such a lottery or prize competition as is not deemed to be unlawful" shall be substituted;

(*3*) in the marginal note to the said section, after the word "lotteries" the words "and prize competitions" shall be inserted.

Amendment of section 7 of Bom. LIV of 1948.

5. In section 7 of the said Act, the following shall be added at the end, namely :—

"Provided further that the State Government may grant exemption in respect of a prize competition contained in any newspaper or publication printed and published outside the State if the State Government is satisfied that the promoter has no intention of promoting the prize competition within the State."

Amendment of section 8 of Bom. LIV of 1948.

6. In section 8 of the said Act, after the word "lotteries", the words "or prize competitions" shall be inserted.

Amendment of section 12 of Bom. LIV of 1948.

7. For section 12 of the said Act, the following shall be substituted, namely :—

Levy of tax on lotteries and prize competitions.

"(*1*) There shall be levied,—

(*a*) in respect of every lottery for which a licence has been obtained under section 5 or 6, a tax at the rate of 25 per cent. of the total sum received or due on account of such lottery; and

(*b*) in respect of every prize competition for which a licence has been obtained under section 7, a tax at the rate of 25 per cent. of the total sum received in respect of such competition.

The tax shall be collected from the promoter of such lottery or prize competition, as the case may be.

(*2*) Notwithstanding anything contained in clause (*b*) of sub-section (*1*), the State Government may, by notification in the *Official Gazette*, direct that the tax to be levied in respect of a prize competition shall be at such rate not exceeding 50 per cent. of the total sum received or due in respect of such prize competition as may be specified in the notification. Such rate may be different in the case of different prize competitions, having regard to the total sum received in respect of such competitions as disclosed from the statements submitted to the Collector under section 15 for the period of twelve consecutive months immediately preceding the date of the notification under this sub-section."

Insertion of new section 12A in Bom. LIV of 1948.

8. After section 12 of the said Act, the following shall be inserted, namely :—

Levy of tax on lotteries and prize competitions in newspapers and publications printed and published outside State.

" "12A. Notwithstanding anything contained in section 12, there shall be levied in respect of every lottery or prize competition contained in a newspaper or publication printed and published outside the State, for which a licence has been obtained under section 5, 6 or 7, a tax at such rates as may be specified by the State Government in a notification in the *Official Gazette* not exceeding the rates specified in section 12 on the sums specified in the declaration made under section 15 by the promoter of the lottery or prize competition as having been received or due in respect of such lottery or prize competition or in a lump sum having regard to the circulation or distribution of the newspaper or publication in the State."

Amendment of section 13 Bom LIV of 1948.

9. In section 13 of the said Act,—

(*1*) in sub-section (*1*), after the words "submitted to him", the words "or a declaration made before him" shall be inserted ;

(*2*) for sub-section (*2*), the following shall be substituted, namely :—

"(*2*) In cases where no such accounts are maintained, or no such statements are submitted, or no such declaration is made, or where such accounts, statements or declaration are or is in the opinion of the Collector false or incorrect, the Collector shall make the calculation to the best of his judgment."

Amendment of section 15 of Bom. LIV of 1948.

10. In section 15 of the said Act,—

(*1*) the following shall be added, namely :—

"Provided that in the case of a lottery or prize competition contained in a newspaper or publication printed and published outside the State every person promoting such lottery or prize competition shall make a declaration in such form and at such period as may be prescribed" ;

(*2*) in the marginal note to the said section, the words ", submit statements and to make declaration" shall be added at the end.

11. For section 16 of the said Act, the following shall be substituted, namely :— Amendment of section 16 of Bom. LIV of 1948.

"**16.** If any promoter of a lottery or prize competition liable under section 15 to keep accounts, to submit statements or to make a declaration, fails to keep accounts, to submit statements or to make a declaration in the manner and at the period prescribed or keeps accounts, submits statements or makes a declaration which he knows to be or has reason to believe to be false, he shall, on conviction, be punished with fine which may extend to five hundred rupees." Penalty for failure to keep accounts, to submit statements, to make declaration or keeping or submitting or making false accounts, statements or declaration.

12. After section 16 of the said Act, the following shall be inserted, namely :— Insertion of new section 16A in Bom. LIV of 1948.

"**16A.** Where any newspaper or publication, wherever printed or published, [illegible] unlawful lottery or prize competition the Collector may, by notification in the *Official Gazette*, declare every copy of the issue of the newspaper or [illegible] of such publication containing such lottery or prize competition to be [illegible] to the State Government." Forfeiture of newspapers and publications containing unlawful lotteries or prize competitions.

13. In section 31 of the said Act, in clause (*ii*) of sub-section (2), after the words "are to be submitted", the words "or a declaration is to be made" shall be inserted. Amendment of section 31 of Bom. LIV of 1948.

STATEMENT OF OBJECTS AND REASONS.

Experience has shown that the Bombay Lotteries and Prize Competitions Control and Tax Act, 1948, does not effectively deal with all prize competitions, for example, those contained in a newspaper or publication printed and published outside the State of Bombay. It has also been found necessary to revise the provision in the Act about taxation so as to enable Government to levy different rates of tax on different prize

competitions having regard to the total sums received by the promoters of various prize competitions. It is therefore proposed to amend the Act to provide for the effective control of all prize competitions and to prescribe a revised system of taxation.

Dated the 19th July 1952. (Signed) MORARJI DESAI.

By order of the Governor of Bombay,

J. R. DHURANDHAR,
Additional Secretary to the Government of Bombay,
Legal Department.

Poona, dated the 21st July 1952.

BOMBAY : PRINTED AT THE GOVERNMENT CENTRAL PRESS.

L. A. BILL No. XXXII OF 1952.

A Bill to amend the Bombay Lotteries and Prize Competitions Control and Tax Act, 1948.

(As read for the third time and passed by the Legislative Assembly on the 12th August 1952.)

Bom. LIV of 1948. WHEREAS it is expedient to amend the Bombay Lotteries and Prize Competitions Control and Tax Act, 1948, for the purposes hereinafter appearing; It is hereby enacted as follows :—

1. This Act may be called the Bombay Lotteries and Prize Competitions Control and Tax (Amendment) Act, 1952. Short title.

MO-IV Bk HB 194

Amendment of section 2 of Bom. LIV of 1948.

2. In section 2 of the Bombay Lotteries and Prize Competitions Control and Tax Act, 1948 (hereinafter referred to as "the said Act"), — Bom. LIV of 1948.

(*1*) in sub-section (*1*),—

(*i*) in clause (*d*),—

(*a*) for sub-clause (*i*) the following shall be substituted, namely :—

"(*i*) (1) cross-word prize competition,

(2) missing word prize competition,

(3) picture prize competition,

(4) number prize competition, or

(5) any other prize competition, for which the solution is or is not prepared before hand by the promoters or for which the solution is determined by lot or chance ; " ;

(*b*) the words "but does not include a prize competition contained in a newspaper printed and published outside the State of Bombay" shall be deleted ;

(*ii*) after clause (*d*), the following shall be inserted, namely :—

"(*dd*) 'promoter' includes a proprietor, manager, organizer or any person having the control or directing the conduct of a lottery or prize competition and in the case of a lottery or a prize competition conducted through a newspaper, includes the publisher of such newspaper :

Provided that in the case of a lottery or prize competition contained in a newspaper or publication printed and published outside the State, the manager or agent of the publisher of such newspaper or publication in charge of its circulation or distribution shall be deemed to be a promoter of the lottery or prize competition for the purposes of this Act ; and the words 'promote' and 'promoting' shall be construed accordingly ;"

(*2*) in sub-section (*2*),—

(*i*) in clause (*a*), the word "and" occurring at the end shall be deleted

(*ii*) in clause (*b*), for the words "construed accordingly", the words "construed accordingly ; and" shall be substituted ; and

(*iii*) after clause (*b*), the following clause shall be added, namely :—

"(*c*) the Collector may, after making such inquiry as he deems fit, determine the person who is or is to be deemed to be a promoter in relation to a lottery or a prize competition, and his decision shall be final."

Amendment of section 3 of Bom. LIV of 1948.

3. In section 3 of the said Act and in the marginal note to the said section, after the word "lotteries" the words "and all prize competitions" shall be inserted.

Amendment of section 4 of Bom. LIV of 1948.

4. In section 4 of the said Act,—

(*1*) in sub-section (*1*),—

(*a*) after the words "in connection with any lottery", the words "or prize competition which is unlawful under the provisions of this Act, but which is" shall be inserted ;

(*b*) in clause (*a*), after the words "figure in the lottery" the words "or to the holding or production of any coupon" shall be inserted ;

(*c*) in clause (*b*), for the words "any tickets for use in the lottery" the words "any tickets or coupons for use in the lottery or prize competition" shall be substituted;

(*d*) in clause (*c*), for the words "any tickets or chances in the lottery" the words "any tickets, coupons or chances in the lottery or prize competition" shall be substituted;

(*e*) in clause (*d*),—

(*i*) in sub-clause (*i*), for the words "of the lottery" the words "of the lottery or prize competition" shall be substituted;

(*ii*) in sub-clause (*ii*), for the words "winning tickets in the lottery" the words "winning tickets or coupons in the lottery or prize competition" shall be substituted;

(*iii*) in sub-clause (*iii*),—

(*a*) for the word "lottery", where it occurs for the second time, the words "lottery or prize competition" shall be substituted; and

(*b*) for the words "in that lottery or in other lotteries" the words "in that lottery or prize competition or in other lotteries or prize competitions" shall be substituted;

(*f*) in clause (*e*),—

(*i*) after the word "ticket" the words "or coupon" shall be inserted; and

(*ii*) after the words "of, the lottery" the words "or prize competition" shall be inserted;

(*g*) in clause (*f*), for the words "of any ticket or chance in the lottery" the words "any ticket, coupon or chance in the lottery or prize competition" shall be substituted;

(*h*) in clause (*g*), after the words "of the lottery" the words "or prize competition" shall be inserted;

(*2*) in sub-section (*2*), for the words beginning with the words "the lottery to" and ending with the words "or prize competition" the words "the lottery or prize competition to which the proceedings relate was such a lottery or prize competition as is not deemed to be unlawful" shall be substituted;

(*3*) in the marginal note to the said section, after the word "lotteries" the words "and prize competitions" shall be inserted.

Amendment of section 7 of Bom. LIV of 1948.

5. In section 7 of the said Act, the following shall be added at the end, namely :—

"Provided further that the State Government may grant exemption in respect of a prize competition contained in any newspaper or publication printed and published outside the State if the State Government is satisfied that the promoter has no intention of promoting the prize competition within the State."

Amendment of section 8 of Bom. LIV of 1948.

6. In section 8 of the said Act, after the word "lotteries", the words "or prize competitions" shall be inserted.

Amendment of section 12 of Bom. LIV of 1948.

7. For section 12 of the said Act, the following shall be substituted, namely :—

Levy of tax on lotteries and prize competitions.

"12. (*1*) There shall be levied,—

(*a*) in respect of every lottery for which a licence has been obtained under section 5 or 6, a tax at the rate of 25 per cent. of the total sum received or due in respect of such lottery; and

(*b*) in respect of every prize competition for which a licence has been obtained under section 7, a tax at the rate of 25 per cent. of the total sum received in respect of such competition.

The tax shall be collected from the promoter of such lottery or prize competition, as the case may be.

(*2*) Notwithstanding anything contained in clause (*b*) of sub-section (*1*), the State Government may, by notification in the *Official Gazette*, direct that the tax to be levied in respect of a prize competition shall be at such rate not exceeding 50 per cent. of the total sum received or due in respect of such prize competition as may be specified in the notification. Such rate may be different in the case of different prize competitions, having regard to the total sum received in respect of such competitions as disclosed from the statements submitted to the Collector under section 15 for the period of twelve consecutive months immediately preceding the date of the notification under this sub-section."

Insertion of new section 12A in Bom. LIV of 1948.

8. After section 12 of the said Act, the following shall be inserted, namely :—

Levy of tax on lotteries and prize competitions in newspapers and publications printed and published outside State.

" 12A. Notwithstanding anything contained in section 12, there shall be levied in respect of every lottery or prize competition contained in a newspaper or publication printed and published outside the State, for which a licence has been obtained under section 5, 6 or 7, a tax at such rates as may be specified by the State Government in a notification in the *Official Gazette* not exceeding the rates specified in section 12 on the sums specified in the declaration made under section 15 by the promoter of the lottery or prize competition as having been received or due in respect of such lottery or prize competition or in a lump sum having regard to the circulation or distribution of the newspaper or publication in the State."

Amendment of section 13 Bom. LIV of 1948.

9. In section 13 of the said Act,—

(*1*) in sub-section (*1*), after the words "submitted to him", the words "or a declaration made before him " shall be inserted ;

(*2*) for sub-section (*2*), the following shall be substituted, namely :—

" (*2*) In cases where no such accounts are maintained, or no such statements are submitted, or no such declaration is made, or where such accounts, statements or declaration are or is in the opinion of the Collector false or incorrect, the Collector shall make the calculation to the best of his judgment."

Amendment of section 15 of Bom. LIV of 1948.

10. In section 15 of the said Act,—

(*1*) the following shall be added, namely :—

" Provided that in the case of a lottery or prize competition contained in a newspaper or publication printed and published outside the State every person promoting such lottery or prize competition shall make a declaration in such form and at such period as may be prescribed " ;

(*2*) in the marginal note to the said section, the words ", submit statements and to make declaration " shall be added at the end.

11. For section 16 of the said Act, the following shall be substituted, namely :— Amendment of section 16 of Bom. LIV of 1948.

"16. If any promoter of a lottery or prize competition liable under section 15 to keep accounts, to submit statements or to make a declaration fails to keep accounts, to submit statements or to make a declaration in the manner and at the period prescribed or keeps accounts, submits statements or makes a declaration which he knows to be or has reason to believe to be false, he shall, on conviction, be punished with fine which may extend to five hundred rupees." Penalty for failure to keep accounts, to submit statements, to make declaration or keeping or submitting or making false accounts, statements or declaration.

12. After section 16 of the said Act, the following shall be inserted, namely :— Insertion of new section 16A in Bom. LIV of 1948.

"16A. Where any newspaper or publication, wherever printed or published, contains an unlawful lottery or prize competition the Collector may, by notification in the *Official Gazette*, declare every copy of the issue of the newspaper or every copy of such publication containing such lottery or prize competition to be forfeited to the State Government." Forfeiture of newspapers and publications containing unlawful lotteries or prize competitions.

13. In section 31 of the said Act, in clause (*ii*) of sub-section (*2*), after the words "are to be submitted", the words "or a declaration is to be made" shall be inserted. Amendment of section 31 of Bom. LIV of 1948.

STATEMENT OF OBJECTS AND REASONS.

Experience has shown that the Bombay Lotteries and Prize Competitions Control and Tax Act, 1948, does not effectively deal with all prize competitions, for example, those contained in a newspaper or publication printed and published outside the State of Bombay. It has also been found necessary to revise the provision in the Act about taxation so as to enable Government to levy different rates of tax on different prize competitions having regard to the total sums received by the promoters of various prize competitions. It is therefore proposed to amend the Act to provide for the effective control of all prize competitions and to prescribe a revised system of taxation.

Dated the 19th July 1952. MORARJI DESAI.

Government of Bombay

LEGAL DEPARTMENT

[L. A. BILL No. XXXII OF 1952.]

(As read for the third time and passed by the Legislative Assembly on the 12th August 1952.)

A Bill to amend the Bombay Lotteries and Prize Competitions Control and Tax Act, 1948.

[Shri Morarji Desai, M.L.A.]

BOMBAY : PRINTED AT THE GOVERNMENT CENTRAL PRESS.

STATEMENT OF OBJECTS AND REASONS.

Experience has shown that the Bombay Lotteries and Prize Competitions Control and Tax Act, 1948, does not effectively deal with all prize competitions, for example, those contained in a newspaper or publication printed and published outside the State of Bombay. It has also been found necessary to revise the provision in the Act about taxation so as to enable Government to levy different rates of tax on different prize competitions having regard to the total sums received by the promoters of various prize competitions. It is therefore proposed to amend the Act to provide for the effective control of all prize competitions and to prescribe a revised system of taxation.

Dated the 19th July 1952. MORARJI DESAI.

REGISTERED No. B–1

The Bombay Government Gazette

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Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART IV

Acts of the Bombay Legislature and Ordinances promulgated and Regulations made by the Governor.

CONTENTS.

	PAGES
BOMBAY ACT No. XXX OF 1952—An Act to amend the Bombay Lotteries and Prize Competitions Control and Tax Act, 1948	133–137

The following Act of the Bombay Legislature having been assented to by the President on the 11th November 1952 is hereby published for general information.

J. R. DHURANDHAR,
Additional Secretary to the Government of Bombay,
Legal Department.

BOMBAY ACT No. XXX OF 1952.

First published, after having received the assent of the President, in the "Bombay Government Gazette" on the 20th November 1952.)

An Act to amend the Bombay Lotteries and Prize Competitions Control and Tax Act, 1948.

WHEREAS it is expedient to amend the Bombay Lotteries and Prize Competitions Control and Tax Act, 1948, for the purposes hereinafter appearing; It is hereby enacted as follows :—

1. This Act may be called the Bombay Lotteries and Prize Competitions Control and Tax (Amendment) Act, 1952. Short title.

Amendment of section 2 of Bom. LIV of 1948.

2. In section 2 of the Bombay Lotteries and Prize Competitions Control and Tax Act, 1948 (hereinafter referred to as "the said Act"), — Bom. LIV of 1948.

(*1*) in sub-section (*1*),—

(*i*) in clause (*d*),—

(*a*) for sub-clause (*i*) the following shall be substituted, namely :—

"(*i*) (1) cross-word prize competition,

(2) missing word prize competition,

(3) picture prize competition,

(4) number prize competition, or

(5) any other prize competition, for which the solution is or is not prepared before hand by the promoters or for which the solution is determined by lot or chance ; " ;

(*b*) the words "but does not include a prize competition contained in a newspaper printed and published outside the State of Bombay" shall be deleted ;

(*ii*) after clause (*d*), the following shall be inserted, namely :—

"(*dd*) 'promoter' includes a proprietor, manager, organizer or any person having the control or directing the conduct of a lottery or prize competition and in the case of a lottery or a prize competition conducted through a newspaper, includes the publisher of such newspaper :

Provided that in the case of a lottery or prize competition contained in a newspaper or publication printed and published outside the State, the manager or agent of the publisher of such newspaper or publication in charge of its circulation or distribution shall be deemed to be a promoter of the lottery or prize competition for the purposes of this Act ; and the words 'promote' and 'promoting' shall be construed accordingly ;"

(*2*) in sub-section (*2*),—

(*i*) in clause (*a*), the word "and" occurring at the end shall be deleted ;

(*ii*) in clause (*b*), for the words "construed accordingly", the words "construed accordingly ; and" shall be substituted ; and

(*iii*) after clause (*b*), the following clause shall be added, namely :—

"(*c*) the Collector may, after making such inquiry as he deems fit, determine the person who is or is to be deemed to be a promoter in relation to a lottery or a prize competition, and his decision shall be final."

Amendment of section 3 of Bom. LIV of 1948.

3. In section 3 of the said Act and in the marginal note to the said section, after the word "lotteries" the words "and all prize competitions" shall be inserted.

Amendment of section 4 of Bom. LIV of 1948.

4. In section 4 of the said Act,—

(*1*) in sub-section (*1*),—

(*a*) after the words "in connection with any lottery", the words "or prize competition which is unlawful under the provisions of this Act, but which is" shall be inserted ;

(*b*) in clause (*a*), after the words "figure in the lottery" the words "or to the holding or production of any coupon" shall be inserted ;

(*c*) in clause (*b*), for the words "any tickets for use in the lottery" the words "any tickets or coupons for use in the lottery or prize competition" shall be substituted;

(*d*) in clause (*c*), for the words "any tickets or chances in the lottery" the words "any tickets, coupons or chances in the lottery or prize competition" shall be substituted;

(*e*) in clause (*d*),—

(*i*) in sub-clause (*i*), for the words "of the lottery" the words "of the lottery or prize competition" shall be substituted;

(*ii*) in sub-clause (*ii*), for the words "winning tickets in the lottery" the words "winning tickets or coupons in the lottery or prize competition" shall be substituted;

(*iii*) in sub-clause (*iii*),—

(*a*) for the word "lottery", where it occurs for the second time, the words "lottery or prize competition" shall be substituted; and

(*b*) for the words "in that lottery or in other lotteries" the words "in that lottery or prize competition or in other lotteries or prize competitions" shall be substituted;

(*f*) in clause (*e*),—

(*i*) after the word "ticket" the words "or coupon" shall be inserted; and

(*ii*) after the words "of the lottery," the words "or prize competition" shall be inserted;

(*g*) in clause (*f*), for the words "of any ticket or chance in the lottery" the words "any ticket, coupon or chance in the lottery or prize competition" shall be substituted;

(*h*) in clause (*g*), after the words "of the lottery" the words "or prize competition" shall be inserted;

(*2*) in sub-section (*2*), for the words beginning with the words "the lottery to" and ending with the words "or prize competition" the words "the lottery or prize competition to which the proceedings relate was such a lottery or prize competition as is not deemed to be unlawful" shall be substituted;

(*3*) in the marginal note to the said section, after the word "lotteries" the words "and prize competitions" shall be inserted.

5. In section 7 of the said Act, the following shall be added at the end, namely :— Amendment of section 7 of Bom. LIV of 1948.

"Provided further that the State Government may grant exemption in respect of a prize competition contained in any newspaper or publication printed and published outside the State if the State Government is satisfied that the promoter has no intention of promoting the prize competition within the State."

In section 8 of the said Act, after the word "lotteries", the words "or prize competitions" shall be inserted. Amendment of section 8 of Bom. LIV of 1948.

Section 12 of the said Act, the following shall be substituted, namely :— Amendment of section 12 of Bom. LIV of 1948.

There shall be levied,— Levy of tax on lotteries and prize competitions.

(*a*) of every lottery for which a licence has been obtained under this Act a tax at the rate of 25 per cent. of the total sum received or due on account of such lottery; and

(*b*) in respect of every prize competition for which a licence has been obtained under section 7, a tax at the rate of 25 per cent. of the total sum received in respect of such competition.

The tax shall be collected from the promoter of such lottery or prize competition, as the case may be.

(*2*) Notwithstanding anything contained in clause (*b*) of sub-section (*1*), the State Government may, by notification in the *Official Gazette*, direct that the tax to be levied in respect of a prize competition shall be at such rate not exceeding 50 per cent. of the total sum received or due in respect of such prize competition as may be specified in the notification. Such rate may be different in the case of different prize competitions, having regard to the total sum received in respect of such competitions as disclosed from the statements submitted to the Collector under section 15 for the period of twelve consecutive months immediately preceding the date of the notification under this sub-section."

Insertion of new section 12A in Bom. LIV of 1948.

8. After section 12 of the said Act, the following shall be inserted, namely :—

Levy of tax on lotteries and prize competitions in newspapers and publications printed and published outside State.

"12A. Notwithstanding anything contained in section 12, there shall be levied in respect of every lottery or prize competition contained in a newspaper or publication printed and published outside the State, for which a licence has been obtained under section 5, 6 or 7, a tax at such rates as may be specified by the State Government in a notification in the *Official Gazette* not exceeding the rates specified in section 12 on the sums specified in the declaration made under section 15 by the promoter of the lottery or prize competition as having been received or due in respect of such lottery or prize competition or in a lump sum having regard to the circulation or distribution of the newspaper or publication in the State."

Amendment of section 13 of Bom. LIV of 1948.

9. In section 13 of the said Act,—

(*1*) in sub-section (*1*), after the words "submitted to him", the words "or a declaration made before him" shall be inserted;

(*2*) for sub-section (*2*), the following shall be substituted, namely :—

"(*2*) In cases where no such accounts are maintained, or no such statements are submitted, or no such declaration is made, or where such accounts, statements or declaration are or is in the opinion of the Collector false or incorrect, the Collector shall make the calculation to the best of his judgment."

Amendment of section 15 of Bom. LIV of 1948.

10. In section 15 of the said Act,—

(*1*) the following shall be added, namely :—

"Provided that in the case of a lottery or prize competition contained in a newspaper or publication printed and published outside the State every person promoting such lottery or prize competition shall make a declaration in such form and at such period as may be prescribed";

(*2*) in the marginal note to the said section, the words ", submit statements and to make declaration" shall be added at the end.

11. For section 16 of the said Act, the following shall be substituted, namely :— Amendment of section 16 of Bom. LIV of 1948.

"16. If any promoter of a lottery or prize competition liable under section 15 to keep accounts, to submit statements or to make a declaration fails to keep accounts, to submit statements or to make a declaration in the manner and at the period prescribed or keeps accounts, submits statements or makes a declaration which he knows to be or has reason to believe to be false, he shall, on conviction, be punished with fine which may extend to five hundred rupees." Penalty for failure to keep accounts, to submit statements, to make declaration or keeping or submitting or making false accounts, statements or declaration.

12. After section 16 of the said Act, the following shall be inserted, namely :— Insertion of new section 16A in Bom. LIV of 1948.

"16A. Where any newspaper or publication, wherever printed or published, contains an unlawful lottery or prize competition the Collector may, by notification in the *Official Gazette*, declare every copy of the issue of the newspaper or every copy of such publication containing such lottery or prize competition to be forfeited to the State Government." Forfeiture of newspapers and publications containing unlawful lotteries or prize competitions.

13. In section 31 of the said Act, in clause (*ii*) of sub-section (*2*), after the words "are to be submitted", the words "or a declaration is to be made" shall be inserted. Amendment of section 31 of Bom. LIV of 1948.

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